



(Billing Code 5001-06)

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 202, 204, 205, 206, 207, 209, 211, 212, 213, 214, 215, 216, 217, 219, 225, 227, 234, 237, 243, 252, and Appendix A to Chapter 2

Defense Federal Acquisition Regulation Supplement; Technical Amendments

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is making technical amendments to the Defense Federal Acquisition Regulation Supplement (DFARS) to provide needed editorial changes and guidance to contracting officers.

DATES: Effective Date: [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Ms. Mary Overstreet, Defense Acquisition Regulations System, OUSD(AT&L)DPAP(DARS), Room 3B855, 3060 Defense Pentagon, Washington, DC 20301-3060. Telephone 703-602-0311; facsimile 703-602-0350.

SUPPLEMENTARY INFORMATION:

This final rule amends the DFARS as follows:

1. Updates the definition of "Contracting activity" at 202.101.

2. Directs contracting officers to additional procedures and guidance by adding references to the DFARS PGI at 204.402, 204.403, 205.207(a)(i) and (d)(iii), 215.407-2, 219.202-1, 219.301-2, 219.301-3, 237.102-75, and 237.102-76.

3. Corrects references in 206.203(b), 207.471(b), 209.105-1(2), 209.403, 209.406-1(a)(i)(A), 211.002, 212.503(a)(x), 212.504(a)(xvi), 213.301(2), 214.404-1, 216.603-4(b)(3), 225.7501(a)(2)(i), 227.304-1, 234.003, 234.201(4), and 243.204-71(b).

4. Adds a paragraph at 217.171(d) reflecting a statutory threshold for multiyear contracts for services that was inadvertently omitted from a final rule published at 76 FR 58152 on September 20, 2011. This coverage was previously included at DFARS 217.171(a)(6).

5. Revises the subpart 217.5 heading to align with the Federal Acquisition Regulation (FAR), redesignates 217.500(b) as 217.500(a), and redesignates 217.504 as 217.503 and adds a FAR reference.

6. Makes minor editorial corrections at 225.403(c) and 227.7203-15(c)(1) through (4).

7. Makes minor corrections to clause dates, format, addresses, and references in the clauses at 252.203-7003, 252.211-7003, 252.212-7001, 252.227-7015, 252.229-7006, 252.229-7008, and 252.235-7002.

8. Adds an editorial footnote to the charter for the Armed

Services Board of Contract Appeals in Appendix A to cross reference to a revised statutory citation.

List of Subjects in 48 CFR Parts 202, 204, 205, 206, 207, 209, 211, 212, 213, 214, 215, 216, 217, 219, 225, 227, 234, 237, 243, 252, and Appendix A to Chapter 2.

Government procurement.

Mary Overstreet,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 202, 204, 205, 206, 207, 209, 211, 212, 213, 214, 215, 216, 217, 219, 225, 227, 234, 237, 243, 252, and Appendix A to Chapter 2 are amended as follows:

1. The authority citation for 48 CFR parts 202, 204, 205, 206, 207, 209, 211, 212, 213, 214, 215, 216, 217, 219, 225, 227, 234, 237, 243, 252 and Appendix A to Chapter 2 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 202 DEFINITIONS OF WORDS AND TERMS

202.101 [Amended]

2. Section 202.101 is amended by—

a. Amending the Department of Defense list by removing the “Counterintelligence Field Activity”;

b. Amending the Department of Defense list by removing “Washington Headquarters Services, Acquisition and Procurement

Office" and adding in its place "Washington Headquarters Services, Acquisition Directorate";

c. Amending the Navy list by removing "Office of the Deputy Assistant Secretary of the Navy (Acquisition & Logistics Management)" and adding in its place "Office of the Deputy Assistant Secretary of the Navy (Acquisition & Procurement)"; and

d. Removing the Defense Business Transformation Agency Contracting Office.

PART 204-ADMINISTRATIVE MATTERS

204.402 [Amended]

3. Section 204.402 is amended by adding the parenthetical phrase "(see PGI 204.402)" at the end of the sentence.

4. Section 204.403 is added to read as follows:

204.403 Responsibilities of contracting officers.

Contracting officers shall ensure that solicitations comply with PGI 204.403.

PART 205-PUBLICIZING CONTRACT ACTIONS

5. Section 205.207 is amended by—

- a. Adding a new paragraph (a)(i); and
- b. Adding a new paragraph ((d)(iii)).

The additions read as follows:

205.207 Preparation and transmittal of synopses.

(a)(i) For numbering synopsis notices, follow the procedures at PGI 205.207(a)(i).

(d) * * *

(iii) For special notices for small business events, follow the procedures at PGI 205.207(d)(ii).

PART 206—COMPETITION REQUIREMENTS

206.203 [Amended]

6. Section 206.203 is amended by removing "(see 226.7003)" and adding in its place "(see 226.370)".

PART 207—ACQUISITION PLANNING

207.471 [Amended]

7. Section 207.471(b) is amended by removing "Chapter 7, Section 070207" and adding in its place "Chapter 6, section 060206".

PART 209—CONTRACTOR QUALIFICATIONS

209-105-1 [Amended]

8. Section 209.105-1(2) is amended by removing "(see PGI 212.403(c) and PGI 249.470)" and adding in its place "(see subpart 42.15)".

209.403 [Amended]

9. Section 209.403(1) is amended by removing "Navy" and adding in its place "Navy/Marine Corps".

209.406-1 [Amended]

10. Section 209.406-1(a)(i)(A) is amended by removing "Subpart 203.70" and adding in its place "FAR subpart 3.10".

PART 211—DESCRIBING AGENCY NEEDS

211-002 [Amended]

11. Section 211.002 is amended by—

a. Removing "DoDD 5000.1," and adding in its place "DoDD 5000.01,"; and

b. Removing "DoDI 5000.2," and adding in its place "DoDI 5000.02,".

PART 212—ACQUISITION OF COMMERCIAL ITEMS

212.503 [Amended]

12. Section 212.503(a)(x) is amended by removing "see 225.7019-2(b) (Section 8064 of Pub. L. 106-259)" and adding in its place "see 225.7009-3 (section 8065 of Pub. L. 107-117)".

212.504 [Amended]

13. Section 212.504(a)(xvi) is amended by removing "see 225.7009-2(b) (Section 9064 of Pub. L. 106-259)" and adding in its place "see 225.7009-3 (section 8065 of Pub. L. 107-117)".

PART 213—SIMPLIFIED ACQUISITION PROCEDURES

213.301 [Amended]

14. Section 213.301(2) is amended by removing "201.603-3(b)" and adding in its place "201.603-3(a)".

PART 214—SEALED BIDDING

214.404-1 [Amended]

15. Section 214.404-1 is amended by removing "(FAR 14.404-1(c) and (e))" and adding in its place "FAR 14.404-1(c) and (e)(1)".

PART 215—CONTRACTING BY NEGOTIATION

16. Section 215.407-2(a) is added to read as follows:

215.407-2 Make-or-buy programs.

(a) General. See PGI 215.407-2 for guidance on factors to consider when deciding whether to request a make-or-buy plan and for factors to consider when evaluating make-or-buy plan submissions.

* * * * *

PART 216—TYPES OF CONTRACTS

216.603-4 [Amended]

17. Section 216.603-4(b)(3) is amended by removing "217.7405(b)" and replacing it with "217.7406(b)".

PART 217—SPECIAL CONTRACTING METHODS

18. Section 217.171(d) is added to read as follows:

217.171 Multiyear contracts for services.

* * * * *

(d) The head of an agency may not initiate a multiyear contract for services if the value of the multiyear contract exceeds \$625.5 million unless a law specifically provides authority for the contract (10 U.S.C. 2306(c)).

SUBPART 217.5—INTERAGENCY ACQUISITIONS

19. Subpart 217.5 heading is revised as set forth above.

217.500 [Amended]

20. In section 217.500, paragraph (b) is redesignated as paragraph (a).

217.504 [Redesignated as 217.503]

21. Section 217.504 is redesignated as section 217.503 and revised to read as follows:

217.503 Ordering procedures.

(a) When the requesting agency is within DoD, a copy of the executed determination and findings required by FAR 17.502-2 shall be furnished to the servicing agency as an attachment to the order. When a DoD contracting office is acting as the servicing agency, a copy of the executed determination and findings shall be obtained from the requesting agency and placed in the contract file for the Economy Act order.

PART 219—SMALL BUSINESS PROGRAMS

22. Section 219.202-1 is added to read as follows:

219.202-1 Encouraging small business participation in acquisitions.

See PGI 205.207(d)(iii) for information on how to advertise a small business event on the Government point of entry.

23. Section 219.301-2 is added to read as follows:

219.301-2 Rerepresentation by a contractor that represented itself as a small business concern.

Follow the procedures at PGI 204.606(4)(vii) for reporting modifications for rerepresentation actions.

24. Section 219.301-3 is added to read as follows:

219.301-3 Rerepresentation by a contractor that represented itself as other than a small business concern.

Follow the procedures at PGI 204.606(4)(vii) for reporting modifications for rerepresentation actions.

PART 225—FOREIGN ACQUISITION

225.403 [Amended]

25. Section 225.403(c) is amended—

a. In paragraph (i)(B), by removing “; or” and adding in its place “;”;

b. In paragraph (ii)(B), by removing “.” and adding in its place “; or”.

26. Section 225.7501(a)(2)(i) is amended by removing “225.104(a)(iii)” and adding in its place “225.104(a)”.

PART 227—PATENTS, DATA, AND COPYRIGHTS

227.304-1 [Amended]

27. Section 227.304-1 is amended by removing the parenthetical phrase “(FAR 27.304-1(e)(2)(ii))”.

227.7203-15 [Amended]

28. Section 227.7203-15(c) is amended—

a. In paragraph (1), by removing “252.227.7014” and adding in its place “252.227-7014”;

b. In paragraph (2), by removing “252.227.7019” and adding in its place “252.227-7019”;

c. In paragraph (3), by removing “252.227.7025” and adding in its place “252.227-7025”; and

d. In paragraph (4), by removing “252.227.7028” and adding in its place “252.227-7028”.

PART 234—MAJOR SYSTEM ACQUISITION

234.003 [Amended]

29. Section 234.003 is amended by—

(a) Removing "DoDD 5000.1" and adding in its place "DoDD 5000.01"; and

(b) Removing "DoDI 5000.2" and adding in its place "DoDI 5000.02".

234.201 [Amended]

30. Section 234.201(4) is amended by removing "PGI 234.201(4)" and adding in its place "PGI 234.201(3)".

PART 237—SERVICE CONTRACTING

31. Section 237.102-75 is added to read as follows:

237.102-75 Guidebook for the acquisition of services.

See PGI 237.102-75 for the "Guidebook for the Acquisition of Services."

32. Section 237.102-76 is added to read as follows:

237.102-76 Review criteria for the acquisition of services.

See PGI 237.102-76 for tenets and review criteria to be used when conducting preaward and postaward reviews for the acquisition of services.

PART 243—CONTRACT MODIFICATIONS

243.204-71 [Amended]

33. Section 243.204-71(b) is amended by removing "PGI 243.204-70(b)" and adding in its place "PGI 243.204-71(b)".

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

34. Section 252.203-7003 is revised to read as follows:

252.203-7003, Agency Office of the Inspector General.

As prescribed in 203.1004(a), use the following clause:

AGENCY OFFICE OF THE INSPECTOR GENERAL (DEC 2011)

The agency office of the Inspector General referenced in paragraphs (c) and (d) of FAR clause 52.203-13, Contractor Code of Business Ethics and Conduct, is the DoD Office of Inspector General at the following address:

Department of Defense Office of Inspector General

Investigative Policy and Oversight

4800 Mark Center Drive, Suite 11H25

Alexandria, VA 22350-1500

For FedEx or UPS packages, use this zip code: 22311

Toll Free Telephone: 866-429-8011

(End of clause)

252.211-7003 [Amended]

35. Section 252.211-7003, Alternate I is amended by—

a. Amending the clause date by removing "(AUG 2008)" and adding in its place "(DEC 2011)".

b. Amending the introductory text by removing "211.274-4(c)" and adding in its place "211.274-6(a)(4)".

252.212-7001 [Amended]

36. Section 252.212-7001 is amended by—

a. Amending the introductory text by removing "and 227.7103-6(a) and (e)";

b. Amending the clause date by removing "(OCT 2011)" and adding in its place "(DEC 2011)";

c. Amending paragraph (b)(1) by removing "(JAN 2009)" and adding in its place "(SEP 2011)";

d. Amending paragraph (b)(4) by removing "(OCT 2010)" and adding in its place "(SEP 2011)";

e. Redesignating paragraph (b)(16) as (b)(17) and paragraph (b)(17) as (b)(16);

f. Amending paragraph (b)(20) by removing "(MAR 2011)" and adding in its place "(DEC 2011)"; and

g. Amending paragraph (c)(3) by removing "(SEP 2011)" and adding in its place "(DEC 2011)".

252.227-7015 [Amended]

37. Section 252.227-7015 is amended by—

a. Amending the introductory text by removing "227.7102-3(a)(1)" and adding in its place "227.7102-4(a)(1)";

b. Amending the clause date by removing "(SEP 2011)" and adding in its place "(DEC 2011)";

c. Amending the Alternate I clause date by removing "(MAR 2011)" and adding in its place "(DEC 2011)"; and

d. Amending the Alternate I introductory text by removing "227.7102-3(a)(2) and adding in its place "227.7102-4(a)(2)".

38. Section 252.229-7006 is revised to read as follows:

252.229-7006 Value Added Tax Exclusion (United Kingdom)

As prescribed in 229.402-70(f), use the follow clause:

VALUE ADDED TAX EXCLUSION (UNITED KINGDOM) (DEC 2011)

The supplies or services identified in this contract are to be delivered at a price exclusive of value added tax under arrangements between the appropriate United States authorities and Her Majesty's Revenue and Customs (HMRC) (Reference HMRC

Notice 431, entitled "Relief from Customs Duty and/or Value Added Tax on United States Government Expenditures in the United Kingdom"). By executing this contract, the Contracting Officer certifies that these supplies or services are being purchased for United States Government official purposes only.

(End of clause)

39. Section 252.229-7008 is revised to read as follows:

252.229-7008 Relief from Import Duty (United Kingdom)

As prescribed in 229.402-70(h), use the following clause:

RELIEF FROM IMPORT DUTY (UNITED KINGDOM) (DEC 2011)

Any import dutiable articles, components, or raw materials supplied to the United States Government under this contract shall be exclusive of any United Kingdom import duties. Any imported items supplied for which import duty already has been paid will be supplied at a price exclusive of the amount of import duty paid. The Contractor is advised to contact Her Majesty's Revenue and Customs (HMRC) to obtain a refund upon completion of the contract (Reference HMRC Notice No. 431, entitled "Relief from Customs Duty and/or Value Added Tax on United States Government Expenditures in the United Kingdom").

(End of clause)

252.235-7002 [Amended]

40. Section 252.235-7002 is amended by-

a. Amending the clause date by removing "(DEC 1991)" and adding in its place "(DEC 2011)"; and

b. Amending paragraph (a) by removing "7 U.S.C. 2316" and adding in its place "7 U.S.C. 2136".

Appendix A to Chapter 2—[Amended]

41. Appendix A to Chapter 2, Part 1—Charter, paragraph 1 is amended by removing "(41 U.S.C. Sect 601, et seq.)" and adding in its place "(41 U.S.C. Section 7101-7109)".

[FR Doc. 2011-31324 Filed 12/06/2011 at 8:45 am; Publication
Date: 12/07/2011]